

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

LEMIT LISTER	§	
v.	§	CIVIL ACTION NO. 6:10-CV-375
COMMISSIONER, SOCIAL SECURITY ADMINISTRATION	§	
	§	

ORDER ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES  
MAGISTRATE JUDGE

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation recommends that the action be reversed and remanded for the Appeals Council's explicit consideration and determination whether the new evidence submitted by the Plaintiff after the ALJ's decision applies to Plaintiff's instant application and whether retroactive benefits should be awarded if it is found to be related, consistent with the Fifth Circuit's reasoning in *Hunter v. Astrue*, 283 Fed. Appx. 261, 263 & n.7 (5th Cir. 2008) (per curiam). No written objections have been filed. The findings and conclusions of the Magistrate Judge are therefore adopted as those of the Court. In light of the foregoing, it is

**ORDERED** that the complaint is hereby **REVERSED AND REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further consideration and determination consistent with the opinion herein. It is further

**ORDERED** that any motion not previously ruled on is **DENIED**.

**So ORDERED and SIGNED this 5th day of March, 2012.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**